

**REMARKS/ARGUMENTS**

Claims 1-48 are pending and at issue in the present application.

Claims 1-48 stand rejected as anticipated by Collingwood (US 5662835).

Applicants traverse the rejection of claims 1-48 as anticipated by Collingwood.

Claim 1, and claims 2-12 dependent thereon, recite a dispenser comprising a housing, a fan mounted to the housing to generate an air stream, between about 10 ml and about 15 ml of a volatile liquid carried within an enclosed reservoir, and a wick extending between the volatile liquid and the air stream. The volatile liquid has an evaporation rate between about  $5.0 \times 10^{-9}$  to about  $10.0 \times 10^{-8}$  meters per second measured with about 30% of the volatile liquid remaining at room temperature, as measured and calculated by drop shape analysis. About 90% of the volatile liquid is capable of evaporating through the wick between within one and two months under ambient conditions when the wick is exposed to the surrounding environment.

Claim 13, and claims 14-24 dependent thereon, recite a dispenser comprising a housing, a porous wick associated with the housing, and a preselected volume of volatile liquid enclosed within a reservoir. The volatile liquid has an evaporation rate between about  $5.0 \times 10^{-9}$  to about  $10.0 \times 10^{-8}$  meters per second measured with about 30% of the volatile liquid remaining at room temperature, as measured and calculated by drop shape analysis. The wick is in fluid communication with the volatile liquid and the surrounding environment. At least 90% of the volatile liquid evaporates within 2 months under ambient conditions when the wick is exposed to the surrounding environment.

Claim 25, and claims 26-36 dependent thereon, recite a refill in combination with a dispenser comprising a container comprising an aperture, a preselected amount of volatile liquid carried within the container, and an ultra high molecular weight high density polyethylene wick disposed in the aperture so as to minimize spillage of the volatile liquid from within the container. The wick is in fluid communication with the volatile liquid and the surrounding environment. The volatile liquid has an evaporation rate between about  $5.0 \times 10^{-9}$  to about  $10.0 \times 10^{-8}$  meters per second measured with about 30% of the volatile liquid remaining at room temperature, as measured and calculated by drop shape analysis. The container is insertable into the dispenser including a housing and a fan mounted to the housing to generate an air stream. About 90% of the volatile liquid evaporates to the surrounding environment through the wick

within two months under ambient conditions.

Claim 37, and claims 38-48 dependent thereon, recite a refill in combination with a dispenser comprising a container and a volatile liquid carried by the container. The volatile liquid has an evaporation rate between about  $5.0 \times 10^{-9}$  to about  $10.0 \times 10^{-8}$  meters per second measured with about 30% of the volatile liquid remaining at room temperature, as measured and calculated by drop shape analysis. The container is insertable into the dispenser, and the dispenser includes a housing and a porous wick associated with the housing.

Further, dependent claims 3, 15, 27, and 39 recite that the volatile liquid of the respective independent claims has a relative evaporation rate between about 0.50 and 4.0.

As disclosed in the specification:

The relative evaporation rate is defined as the evaporation rate of the volatile liquid divided by the evaporation rate of dodecane, measured under identical conditions. (Page 6, lines 21-23.)

The applied art does not disclose or suggest a volatile liquid that has an evaporation rate between about  $5.0 \times 10^{-9}$  to about  $10.0 \times 10^{-8}$  meters per second measured with about 30% of the volatile liquid remaining at room temperature, as measured and calculated by drop shape analysis, as recited in all the claims at issue.

In addition, the applied art does not disclose or suggest a dispenser, as recited in claims 1-12, wherein about 90% of the volatile liquid is capable of evaporating through the wick between within one and two months under ambient conditions when the wick is exposed to the surrounding environment. The applied art does not disclose or suggest a dispenser, as recited in claims 13-24, wherein at least 90% of the volatile liquid evaporates within 2 months under ambient conditions when the wick is exposed to the surrounding environment. And, the applied art does not disclose or suggest a refill in combination with a dispenser, as recited in claims 25-36, wherein about 90% of the volatile liquid evaporates to the surrounding environment through the wick within about two months under ambient conditions.

Further, the applied art does not disclose or suggest the dispensers or combinations as recited in claims 3, 15, 27, and 39, including a volatile liquid having a relative evaporation rate between about 0.50 and 4.0.

In fact, Collingwood discloses an apparatus for emanating a chemical agent specified only as "a fragrance or insecticide" (column 1, line 6). Collingwood does not disclose any specific

information regarding an evaporation rate of the chemical agent.

Because the claim recitations regarding evaporation rate identified above were not addressed at all in the pending Office action, it appears that the examiner is alleging that any volatile active has such evaporation rates. However, as evidenced by the specification (page 6, lines 1-9) of the present application and the documents submitted in the appendix herewith (Orson U.S. Patent No. 5,081,104 and "Now Smell This, A Blog About Perfume"), volatile liquids can have many different evaporation rates and characteristics. Further, volatile liquids may and often do have many different components, each component having a different evaporation characteristic, which dramatically affects the overall evaporation characteristics of the combined volatile liquid. So, for example, as described in the "Now Smell This" article, perfumes often have three different groups of volatile actives, each group having a different evaporation characteristic, such that a first group, called "top notes" will evaporate quickly, a second group, called "middle notes," will evaporate more slowly, and a third group, called "bottom notes," will evaporate most slowly of all, thereby providing differing overall fragrancing characteristics at different times across the evaporative life of the perfume. Or, as described generally in Orson, different combinations of volatile actives in a volatile liquid will cause the volatile liquid to have different evaporation rates and other characteristics. Based on this evidence, the undersigned urges that the evaporation rates and other evaporation-related characteristics recited in the claims at issue are distinguishing characteristics of the claimed invention over the applied art, are not disclosed or suggested by a reference, such as Collingwood, that only discloses volatile actives in general, and therefore must be given patentable weight during examination thereof.

Further, the invention of the present application, in some embodiments, provides the ability to provide a refill having an evaporation characteristic that ensures a minimum level of volatile emission to the surrounding environment for a relatively well defined determinate period of time, such as, for example, providing a minimum level of fragrance or insecticide into the surrounding environment for between one to two months. The applied art does not disclose or suggest such a result of any volatile liquid in combination with refills and dispensers, as recited in the claims at issue, that would not require undue experimentation.

Appl. No. 10/608,357  
Amdt. A dated January 17, 2006  
Reply to O.A. of October 17, 2006

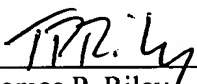
PATENT  
Docket No. J-3866

For the foregoing reasons, applicants request reconsideration and allowance of the claims at issue, notice of which is respectfully requested.

Respectfully submitted,

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**Appendix**



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## Perfume FAQ: Frequently Asked Questions About Perfume

### Why do perfumes smell different on different people?

Your own body chemistry affects how different notes react on your skin. Anything that affects the "natural" smell of your skin, such as stress, hormonal changes, your current diet or medications, might change how a perfume smells on you. For a more detailed explanation, see [here](#).

### How can I make my perfume last longer on my skin?

All other things being equal, perfumes evaporate more rapidly from dry skin, so the best way to make fragrance last longer is to use a relatively heavy body lotion or cream. Some people like to buy the "matching" cream for their fragrance, but you can also use an unscented cream like Cetaphil, or try petroleum jelly or jojoba oil. You might also try a light mist to your hair, which is said to hold scent longer than skin.

### What are Eau De Toilette, Eau De Parfum, etc?

These terms refer to the strength of the fragrance, or more specifically, to how much high grade alcohol and/or water has been added to the fragrance oils. Parfum (generally the most concentrated form you can buy) has 15-25% perfume oil dissolved in alcohol. Any mixture with a lower proportion of oil to alcohol is an eau (water).

Eau Fraiche (Usually 3% or less perfume oil)  
Eau de cologne (2 - 5% perfume oil)  
Eau de Toilette (4 - 10% perfume oil)  
Eau de parfum (8 - 15% perfume oil)  
Soie de Parfum (15 - 18% perfume oil)  
PARFUM or Perfume (15 - 25% - also sometimes referred to as extract or extrait)  
Perfume oil (15-30% perfume oil in an oil rather than alcohol base)

You may also see the term Parfum de Toilette. Most companies use this term to describe a concentration that is either the same as Eau De Parfum, or between Eau De Parfum and Parfum. Other companies use the term to describe an Eau De Toilette concentration.

To further confuse matters, some companies use different notes, or different proportions of notes, in the different forms of fragrance they offer. In addition, some companies reserve costly fragrance oils for their parfum, and use synthetic substitutes in lighter concentrations.

### What are top, middle, and base notes?

Top notes provide the first scent impression of a

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28	29	30	31			

fragrance once it has been applied to the skin. They are usually lighter, more volatile aromas that evaporate readily. Their scent usually lingers for between 5 and 30 minutes. Middle notes, sometimes referred to as "heart notes", make up the body of the blend. They may be evident from the start, but will usually take 10-30 minutes to fully develop on the skin. They are the notes that classify the fragrance family (floral, oriental, chypre, etc, see below). Base Notes are those with the greatest molecular weight. They last the longest, and are also important as fixatives, that is, they help slow down the evaporation rates of the lighter notes, giving the fragrance holding power. Common base notes include oakmoss, patchouli, woods, musk and vanilla.

A fragrance which does not have traditional top, middle and base notes is usually described as "linear".

#### What are the "fragrance families"?

These are "aroma groupings" of related scents. There is more than one classification system in use, but many list 7 major families: Greens, Florals, Aldehydics, Chypre, Oriental, Fougère & Tobacco/Leather. Some listings of the major fragrance families can be found at:

[www.houseofversailles.com](http://www.houseofversailles.com)  
[www.parfumsraffy.com](http://www.parfumsraffy.com)  
[www.art-et-parfum.com](http://www.art-et-parfum.com)

#### How long can I keep my perfume before it "turns"?

Some industry experts say that perfume should be replaced every year, but properly stored, perfumes should last much longer. Most perfumes will keep several years, some will keep many more years than that.

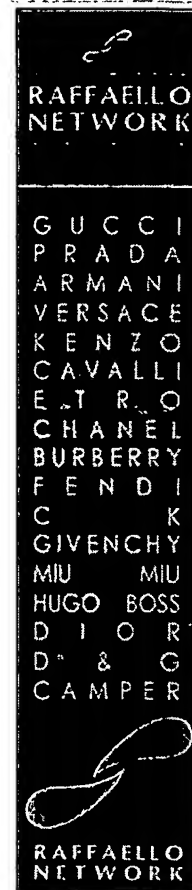
To store perfume properly, keep it away from heat and light. A dark closet or a covered box is best. Also avoid direct exposure to air. Splash bottles, which expose the fragrance to air every time they are opened, are problematic. Consider decanting into a smaller atomizer for regular use. If you apply perfume directly from a bottle stopper, wipe the stopper with a clean, lint free cloth before replacing it in the bottle.



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